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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

State of California et al.,

Plaintiffs,

v.

Donald J. Trump, in his official capacity as
President of the United States, et al.,

Defendants.

Case No. 3:25-cv-03372-JSC

**UNOPPOSED MOTION OF THE
BRENNAN CENTER FOR JUSTICE
FOR LEAVE TO FILE BRIEF AS
AMICUS CURIAE**

The Brennan Center for Justice at New York University School of Law (the “Brennan Center”) respectfully seeks the Court’s leave to file the attached brief of amicus curiae in support of Plaintiffs.

The Brennan Center is a nonprofit, non-partisan law and public policy institute that seeks to strengthen, revitalize, and defend our systems of democracy and justice. The Brennan Center’s Liberty and National Security program uses innovative policy recommendations, litigation, and public advocacy to advance effective national security policies that respect the rule of law, constitutional rights, and separation of powers. Program staff have conducted extensive research and advocacy on presidential emergency powers, including the statute at issue in this case, the International Emergency Economic Powers Act (“IEEPA”), 50 U.S.C. §§ 1701-1710. *See, e.g.,* Andrew Boyle, Brennan Center for Justice, *Checking the President’s Sanctions Powers* (2021),

1 <https://perma.cc/V2ZG-573P>; *Hearing on Restoring Congressional Oversight over Emergency*
 2 *Powers: Exploring Options to Reform the National Emergencies Act Before the S. Comm. on*
 3 *Homeland Sec. and Governmental Affs.*, 118th Cong. (2024) (statement of Elizabeth Goitein,
 4 Brennan Center for Justice), <https://perma.cc/4TJL-3QTR>.

5 District courts have discretion over whether to allow participation by amici, and courts
 6 generally exercise “great liberality” in permitting amicus briefs. *California ex rel. Becerra v. U.S.*
 7 *Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1164 (N.D. Cal. 2019) (citation and internal quotation
 8 marks omitted); *see also Upton v. Fakhoury*, No. 19-55811, 2022 WL 213442, at *1 (9th Cir. Jan.
 9 24, 2022) (unpublished) (district courts have “broad discretion in appointing amicus curiae”).
 10 “District courts frequently welcome amicus briefs from non-parties concerning legal issues that
 11 have potential ramifications beyond the parties directly involved or if the amicus has unique
 12 information or perspective that can help the court beyond the help that the lawyers for the parties
 13 are able to provide.” *NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061,
 14 1067 (N.D. Cal. 2005) (citation and internal quotation marks omitted), *rev’d in part, vacated in*
 15 *part on other grounds*, 531 F.3d 767 (9th Cir. 2008). “The salient question is whether such brief is
 16 helpful to the Court.” *Cody v. Ring, LLC*, 718 F. Supp. 3d 993, 1004 (N.D. Cal. 2024) (quoting
 17 *California ex rel. Becerra*, 381 F. Supp. 3d at 1164).

20 The brief presented by the Brennan Center would provide a unique perspective, rooted in
 21 relevant expertise, on the central question at issue in this case—whether IEEPA authorizes the
 22 imposition of tariffs. Drawing on the Brennan Center’s research, the proposed brief provides
 23 important context regarding the purpose behind Congress’s enactment of both IEEPA and the
 24 National Emergencies Act, 50 U.S.C. §§ 1601-1651, and explains why interpreting IEEPA to
 25 implicitly authorize tariffs would undermine Congress’s intent to rein in presidential use of
 26

1 emergency powers and ensure that such powers would not be used as substitutes for non-emergency
2 legislation.

3 The Brennan Center has a special interest in the subject matter and outcome of this case.
4 Interpreting IEEPA to include authority not expressly mentioned could have spillover effects on
5 the 149 other statutory authorities unlocked upon presidential declaration of a national emergency,
6 enabling “rule by emergency power” and posing a serious threat to constitutional separation of
7 powers.
8

9 Counsel for the Brennan Center has contacted counsel for the parties. Plaintiffs and
10 Defendants have indicated that they do not oppose filing of the proposed brief.

11 For the foregoing reasons, the Brennan Center respectfully requests that the Court grant this
12 Motion and permit counsel to file the accompanying brief of amicus curiae.

13 Dated: May 20, 2025

Respectfully Submitted,

14 /s/ Loren Kieve

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26 *Admission pro hac vice pending

27 *Counsel for Amicus Curiae the Brennan*
28 *Center for Justice*

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2025, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will cause it to be served on all parties and counsel of record.

/s/ Leah J. Tulin
Leah J. Tulin